

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

NICHOLAS JAMES NELSON,  Petitioner,  vs.  J.W. COX, IN HIS CAPACITY AS WARDEN OF YANKTON FEDERAL PRISON CAMP;  Respondent.	4:20-CV-04199-KES  ORDER FOR SERVICE AND TO SHOW CAUSE
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Petitioner Nicholas James Nelson, an inmate at the Yankton Federal Prison Camp, in Yankton, South Dakota, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court directs the petition in this case be served and that a response be filed.

A § 2241 petitioner must exhaust administrative remedies before filing. Mathena v. United States, 577 F.3d 943, 946 (8th Cir. 2009); Thompson, 297 Fed. Appx. at 562; United States v. Chappel, 208 F.3d 1069 (8th Cir. 2000). In his submissions, Mr. Nelson states he is still waiting for a response on his request for administrative remedy. Therefore, the parties will be directed to show cause why the petition should not be dismissed for failure to exhaust administrative remedies.

Accordingly, IT IS ORDERED that:


- (1) Petitioner's motion to proceed in forma pauperis (Doc. 2) is granted. Petitioner shall pay the \$5.00 filing fee by January 4, 2021.
- (2) the Clerk of Court shall serve upon respondent and the United States Attorney for the District of South Dakota a copy of the petition, attachments to the petition, and this order;

- (3) That both respondent and Mr. Nelson shall show cause no later than January 4, 2021, why Mr. Nelson's petition should not be dismissed without prejudice for failure to exhaust his administrative remedies.

**Mr. Nelson is notified that failure to respond to the above order to show cause may result in dismissal of his petition in this court.**

DATED this 14th day of December, 2020.

BY THE COURT:

  
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VERONICA L. DUFFY  
United States Magistrate Judge